

REMARKS

Claims 1, 4, and 6 to 22 are in the application.

Reconsideration and withdrawal of the rejection of the claims under 35 U.S.C. 102(e) as being anticipated by Fowler, are respectfully requested. The Examiner will note that claim 1 has been amended to distinguish over the art and to set forth the present invention more clearly.

The language which has been added to claim 1 as a result of the Amendment is found on page 2, lines 1 to 4, and page 3, last four lines of the specification as filed. Accordingly, no new matter has been added.

Consequently, in the structural element according to the present invention, a support layer 1 and an upper layer 2 are connected to each other by an intermediate layer which is formed or injection molded onto the two layers. An important aspect of the present invention is the fact that not only the intermediate layer 4 but simultaneously also with the intermediate layer 4 in one work step a circumferential bordering which is in a single piece connected to the intermediate layer is foamed or molded to

the intermediate layer. The intermediate layer 4 forms together with the bordering 6 a central connecting and holding element which holds together the support layer 1 and the upper layer 2 which may consist of several coating elements. The connecting and holding element in addition to providing a connecting and holding function, the connecting and holding element composed of the intermediate layer and the bordering 6 also has a sealing function for the floor or wall coverings formed of the structural elements, and it may have a damping function.

In the structural element according to the reference to Fowler, a support layer 16 is glued to an upper layer 17-19. Those skilled in the art understand such a glued connection to be such that at least one of the layers is coated with adhesive and the layers are placed against each other under a certain pressure.

This produces between the layers an adhesive layer of a small undetermined thickness. In particular, the layer is not of uniform thickness and can at certain areas even be interrupted.

Such an adhesive layer which is implicitly disclosed by the reference to Fowler cannot be considered to be the same as the

intermediate layer 4 as it is not recited in claim 1 of the application.

The intermediate layer 4 manufactured in a mold cavity of a tool by foaming or spraying, i.e., by a molding process has a defined thickness which is defined by the distance between the support layer 1 and the upper layer 2 or the coating element 3 assumed in the mold cavity.

A thin intermediate layer of the kind as it is produced when two layers are glued together cannot be manufactured by such foaming or spraying in a molding tool.

Also, the reference to Fowler does not disclose or suggest the intermediate layer which changes in a single piece to a circumferential bordering. US 2004/0031226 A1 which is incorporated by reference in the reference to Fowler, describes bordering 24 composed of an adhesive which cannot be considered to be equivalent to the adhesive layers placed between the layers; the reference certainly does not disclose that one of the thin adhesive layers, which in Fowler are not even illustrated as layers, change over a single piece to the bordering 24.

Accordingly, the structural element described in Fowler is structurally different from the building component according to the present invention as claimed.

Therefore, it is respectfully submitted that it is clear from the above that the claims of the present application are patentable over the art of record.

Therefore, in view of the foregoing, it is submitted that this application is now in condition for allowance and such allowance is respectfully solicited.

Any additional fees or charges required at this time in connection with the application may be charged to our Patent and Trademark Office Deposit Account No. 11-1835.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313, on March 19, 2010.

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